

CHAPTER Env-Sw 100 SOLID WASTE PROGRAM: PURPOSE, APPLICABILITY, AND DEFINITIONS

Statutory Authority: RSA 149-M:7

PART Env-Sw 101 PURPOSE AND APPLICABILITY

Env-Sw 101.01 Purpose. The purpose of the rules in subtitle Env-Sw is to minimize risks to the environment and public health and safety by assuring proper management of solid waste.

Env-Sw 101.02 Applicability.

- (a) The rules in subtitle Env-Sw shall apply to management of solid waste in New Hampshire.
- (b) In subtitle Env-Sw, any requirement that applies to a permitted facility shall be a requirement that applies to the permittee.
- (c) In subtitle Env-Sw, any requirement that applies to an unpermitted facility shall be a requirement that applies to the facility owner.
- (d) The rules in subtitle Env-Sw shall not be construed to preclude compliance with other federal or state statutes, rules, or regulations. If a conflict arises between the rules in subtitle Env-Sw and any federal or state statute, rule, or regulation, the more stringent requirement(s) shall apply.

Env-Sw 101.03 Solid Waste Exclusions. The solid waste rules shall not apply to the following wastes and materials:

- (a) Hazardous waste as defined in RSA 147-A:2, including a solid waste which the generator formally declares in accordance with Env-Wm 502.01(c)(2) to be a hazardous waste and which is subsequently managed as a hazardous waste pursuant to the requirements of RSA 147-A;
- (b) Solid or dissolved materials in irrigation return flows;
- (c) Cut or uprooted stumps buried on-site with local approval, if required, provided that such burial locations are not located within 75 feet of any drinking water supply;
- (d) Municipal and industrial discharges which are point sources subject to permits under section 402 of the Federal Water Pollution Control Act, as amended;
- (e) Radioactive materials as defined and regulated by the New Hampshire rules for the control of radiation, He-P 2000 and He-P 4000;
- (f) Septage as defined in RSA 485-A:2, IX-a;
- (g) Sludge as defined in RSA 485-A:2, XI-a, namely “the solid or semi-solid material produced by water and wastewater treatment processes, excluding domestic septage; provided, however, sludge which is disposed of at solid waste facilities permitted by the department shall be considered solid waste and regulated under RSA 149-M”;
- (h) Yard waste;
- (i) Bodies of deceased persons; and

(j) Waste-derived products which are certified for distribution and use pursuant to Env-Sw 1500 and actively managed.

Env-Sw 101.04 Solid Waste Facility Exclusions. The solid waste rules shall not apply to a facility that has demonstrated to the department, by complying with the registration requirements in Env-Sw 309, that it ceased operating before July 10, 1981.

PART Env-Sw 102 SOLID WASTE RULE DEFINITIONS: A THROUGH E

Env-Sw 102.01 “Abutter” means “abutter” as defined by RSA 149-M:4, I, namely “any person who owns property adjacent to, or across a road, railroad, or stream from the property on which a solid waste facility may be permitted.”

Env-Sw 102.02 “Accumulated waste” means the quantity of waste stored at a facility in excess of the storage capacity specified in the permit or permit exemption.

Env-Sw 102.03 “Active life” means that period of time at a facility during which solid waste is or will be received, processed, treated or disposed, beginning with the date of first waste receipt and ending with the date waste is last received, processed, treated or disposed. The term includes both operating and non-operating days falling between the described beginning and ending points.

Env-Sw 102.04 “Actively manage” means to handle a waste or material, including waste-derived products and recyclable materials, in a controlled manner without causing:

- (a) A nuisance;
- (b) An adverse effect to the environment, public health and safety;
- (c) Accumulations which have no identifiable destination or value; and
- (d) A loss of material value in the market place due to material damage, degradation and/or contamination.

Env-Sw 102.05 “Amended water” means water to which a chemical wetting agent, such as a surfactant, has been added to improve penetration of the water into asbestos or other materials to limit the potential for airborne particulates.

Env-Sw 102.06 “Approved bulking agent” means any material which a facility is authorized in the permit or by the solid waste rules to mix with waste to provide, for processing or treatment of the waste, a source of carbon, air spaces and liquid absorption. The term includes waste-derived products certified for distribution and use as a bulking agent pursuant to Env-Sw 1500.

Env-Sw 102.07 “Applicant” means the person applying for a permit, permit modification, certificate, waiver or other approval pursuant to the solid waste rules and who will be responsible for complying with the provisions of the approval, if granted.

Env-Sw 102.08 “Application” means information and documentation submitted to the department by an applicant to request a permit, permit modification, certificate, waiver or other approval pursuant to the solid waste rules.

Env-Sw 102.09 “Approved design capacity” means the quantity of waste a facility is authorized to manage, expressed as follows:

(a) For all facilities, the average weekly tonnage to be received at the facility during the quarter in which the most waste is anticipated to be received, as specified in the permit or the permit exemption;

(b) For processing or treatment or transfer facilities:

(1) The rated through-put capacity of the equipment for processing of solid waste, as specified in the permit or permit exemption; and

(2) The approved storage capacity; and

(c) For landfills, the approved design volume.

Env-Sw 102.10 "Approved design volume" means the maximum in-place volume of waste, including cover materials, to be received at a landfill during its active life, as specified in the permit or the permit exemption.

Env-Sw 102.11 "Approved storage capacity" means the maximum quantity of waste which a facility is authorized to store, pending removal, processing, treatment or disposal as specified in the permit or permit exemption.

Env-Sw 102.12 "Aquifer" means a geological formation, group of formations, or part of a formation, that is capable of yielding usable quantities of groundwater.

Env-Sw 102.13 "Asbestos" means asbestos as defined by RSA 141-E:2, I, namely "amosite, chrysotile, crocidolite, or asbestiform tremolite, actinolite, or anthophyllite."

Env-Sw 102.14 "Asbestos waste" means:

(a) Solid waste that contains more than one percent asbestos by weight;

(b) Any asbestos-containing solid waste that is collected in a pollution control device designed to remove asbestos; and

(c) The entire volume and weight of any waste identified in (a) or (b) above when mixed with any other material or any solid waste.

Env-Sw 102.15 "Asbestos waste site" means any site that is not permitted to receive asbestos, where asbestos waste, either on the surface or subsurface, is located.

Env-Sw 102.16 "Authorized facility" means a facility holding all requisite federal, state or local permits, licenses or approvals. As applied to a New Hampshire facility, the term includes both permitted facilities and permit-exempt facilities which hold all requisite federal and local permits, licenses or approvals.

Env-Sw 102.17 "Authorized waste" means a waste that is approved by the department for receipt by a facility, as specified in the permit or permit exemption as applicable.

Env-Sw 102.18 "Base flood" means a flood that has a one percent chance of being equaled or exceeded in any given year. The term includes "100-year flood."

Env-Sw 102.19 "Bill of lading" means a receipt, issued by the transporter, listing waste and/or materials shipped.

Env-Sw 102.20 “Biologicals” means preparations made from living organisms and their products, including vaccines and cultures, intended for use in diagnosing, immunizing, or treating humans or animals or in research pertaining thereto.

Env-Sw 102.21 “Body fluids” means liquid emanating or derived from humans and limited to blood, cerebrospinal, synovial, pleural, peritoneal and pericardial fluids and semen and vaginal secretions.

Env-Sw 102.22 “Bottom ash” means the ash residue remaining after combustion of solid waste, fossil fuel, wood, sludge or other materials in an incinerator that is discharged through and from the grates, combustor or stoker.

Env-Sw 102.23 “Bulky waste” means large items that cannot be handled by normal solid waste processing, collection or disposal methods, such as appliances, furniture, large auto parts, tires, and, when they are not buried on-site in accordance with RSA 149-M:4, XXII, tree stumps.

Env-Sw 102.24 “Bypass waste” means any waste that is delivered to a processing or treatment facility but cannot be processed or treated by the facility. The term includes downtime waste, excess waste, unsuitable waste, and accumulated waste.

Env-Sw 102.25 “Call” means action by the department to invoke the provisions of a temporary permit requiring the permittee to either commence the facility closure process or the process for obtaining a permanent permit issued pursuant to RSA 149-M and the solid waste rules for continued operation of the facility.

Env-Sw 102.26 “Cap” means the final cover placed over solid waste at a landfill to minimize the amount of precipitation contacting the solid waste, to prevent contact with the solid waste and to assist in the collection of landfill gas.

Env-Sw 102.27 “Capacity needs” means the amount of facility capacity identified as necessary to accommodate the management of solid waste for:

(a) The state, as contained in the most recent version of the state solid waste plan required by RSA 149-M:6,VI; and

(b) A solid waste management district, as contained in the most recent version of that district's solid waste plan required by RSA 149-M:24,IV.

Env-Sw 102.28 “Cell” means, within a landfill, the smallest unit of subdivided area which is surrounded by berms that hydraulically separate the cell, when active, from other cells of the landfill when such other cells have not yet received wastes or been constructed.

Env-Sw 102.29 “Certified operator” means an individual certified pursuant to Env-Sw 1600.

Env-Sw 102.30 “Certified waste-derived product” means a waste-derived product certified for distribution and use pursuant to Env-Sw 1500.

Env-Sw 102.31 “Class A compost” means compost meeting the criteria specified in Env-Sw 605.05.

Env-Sw 102.32 “Class AA compost” means compost produced from the following source-separated wastes and materials only:

(a) Yard waste and farming crop residuals;

- (b) Food waste;
- (c) Animal manure; or
- (d) Approved bulking agents, including waste-derived products certified for distribution and use as a composting bulking agent pursuant to Env-Sw 1500.

Env-Sw 102.33 “Closure” means the procedures used to permanently cease use of a facility, or portion thereof, in a manner that will minimize future risks of environmental damage and includes all required post-closure inspection, monitoring and maintenance activities.

Env-Sw 102.34 “Coefficient of permeability” means saturated hydraulic conductivity and is the rate of laminar flow of water through a unit cross-sectional area of porous medium under a unit hydraulic gradient at a standard temperature.

Env-Sw 102.35 “Collection, storage and transfer facility” means a facility which collects waste from any location, stores the waste for a limited period of time and subsequently transfers the waste to another location without having changed the characteristics of the waste as received except by having sorted, packaged or compacted the waste. The term includes “transfer station” as defined by Env-Sw 104.54, “recycling facility” as defined by Env-Sw 104.20, stockpiles of waste, and collection devices such as dumpsters.

Env-Sw 102.36 “Combined ash” means a mixture of bottom ash and fly ash.

Env-Sw 102.37 “Commercial facility” means a facility which receives waste from an unlimited service area. The term does not include limited public and limited private facilities.

Env-Sw 102.38 “Commissioner” means the commissioner as defined by RSA 149-M:4, III, namely “the commissioner of the department of environmental services.”

Env-Sw 102.39 “Compost” means “compost” as defined by RSA 149-M:4, IV, namely “a stable, humus-like substance which is derived from a process involving the biological decomposition of any readily biodegradable material, such as animal manure, garbage, yard waste, septage, sludge, or other organic solid wastes, and which can be beneficially re-used for land application.”

Env-Sw 102.40 “Composting facility” means a facility which produces compost.

Env-Sw 102.41 “Confidential business information” means information that is exempt from disclosure under RSA 91-A:5, IV.

Env-Sw 102.42 “Construction and demolition debris” means non-putrescible waste building materials and rubble which is solid waste resulting from the construction, remodeling, repair or demolition of structures or roads. The term includes, but is not limited to, bricks, concrete and other masonry materials, wood, wall coverings, plaster, dry wall, plumbing, fixtures, non-asbestos insulation or roofing shingles, asphaltic pavement, glass, plastics that are not sealed in a manner that conceals other wastes and electrical wiring and components, incidental to any of the above and containing no hazardous liquid or metals. The term does not include asbestos waste, garbage, corrugated container board, electrical fixtures containing hazardous liquids such as fluorescent light ballasts or transformers, furniture, appliances, tires, drums and containers, and fuel tanks.

Env-Sw 102.43 “Contingency plan” means a document describing organized, planned, and technically-coordinated courses of action to be followed by a facility in case of emergency or other

special conditions, such as equipment breakdowns; fire; odor; vectors; explosion; spills; receipt or release of hazardous or toxic materials or substances; groundwater, surface water or air contamination attributable to a facility; and other incidents that could threaten human health or safety or the environment.

Env-Sw 102.44 “Council” means the waste management council established by RSA 21-O:9.

Env-Sw 102.45 “Cover material” means soil or other functionally equivalent material that is placed over solid waste at a landfill. The term does not include materials used to construct a landfill capping system.

Env-Sw 102.46 “Department” means “department” as defined by RSA 149-M:4, V, namely “the department of environmental services.”

Env-Sw 102.47 “Designated river” means that portion of a river which has been specifically designated by the general court pursuant to RSA 483:15.

Env-Sw 102.48 “Director” means the director of the division of waste management.

Env-Sw 102.49 “Discharge” means the accidental or intentional release, spilling, leaking, pumping, pouring, emitting, emptying, or dumping of any solid waste or solid waste constituent, including leachate, into or on any air, land or water.

Env-Sw 102.50 “Disposal” means “disposal” as defined by RSA 149-M:4, VI, namely “the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or onto any land or water with the possible result that such solid waste or any constituent of it may enter the environment, be emitted into the air, or be discharged into any waters, including groundwater.”

Env-Sw 102.51 “District” means “district” as defined by RSA 149-M:4, VII, namely “a solid waste management district established under “RSA 149-M:24”.

Env-Sw 102.52 “District plan” means “district plan” as defined by RSA 149-M:4, VIII, namely “the plan developed for waste management within a district, and approved by the department.”

Env-Sw 102.53 “Division” means the division of waste management within the department of environmental services.

Env-Sw 102.54 “Dormant application” means an application for which the applicant has failed to submit the information required to complete the application within 12 months of the date the application is first deemed incomplete by the department.

Env-Sw 102.55 “Downtime waste” means any processable or treatable solid waste accumulated during a scheduled or unscheduled shut-down of facility operations.

Env-Sw 102.56 “Emergency permit” means a permit issued pursuant to the solid waste rules which authorizes waste management activities at a facility for a limited period of time in response to an emergency for which no other readily available response exists and for which a delayed response to obtain another type of permit would result in an unnecessary risk to public health, safety or the environment.

Env-Sw 102.57 “Emergency permit facility” means a facility authorized or requiring authorization by issuance of an emergency permit.

Env-Sw 102.58 “Encapsulant or sealant” means a substance applied to a material, such as friable asbestos, which controls the release of airborne fibers or particles.

Env-Sw 102.59 “Endangered or threatened species” means any species protected under the Federal Endangered Species Act or under NH RSA 212-A, Endangered Species Conservation Act.

Env-Sw 102.60 “Environmental monitoring points” means locations, monitoring wells, and devices for sampling air, soil, groundwater or surface water at a facility.

Env-Sw 102.61 “Excess waste” means solid waste which cannot be processed or treated because the facility is operating at its approved design capacity.

Env-Sw 102.62 “Existing facility” means a facility that was in existence prior to October 29, 1997.

Env-Sw 102.63 “Expansion” means an increase in the approved design capacity, approved design volume or approved storage capacity of a facility.

PART Env-Sw 103 SOLID WASTE RULE DEFINITIONS: F THROUGH O

Env-Sw 103.01 “Facility” means “facility” as defined in RSA 149-M:4, IX, namely “a location, system, or physical structure for the collection, separation, storage, transfer, processing, treatment, or disposal of solid waste.” The term includes “solid waste facility,” “waste management facility” and “solid waste management facility.”

Env-Sw 103.02 “Facility identification” means, in the context of filing an application or registration pursuant to the solid waste rules, all of the following information for a facility:

- (a) Name;
- (b) Functional classification pursuant to Env-Sw 302.05;
- (c) Mailing address;
- (d) Permit number, if applicable;
- (e) Location by street address and municipality; and
- (f) If not yet issued a permit:
 - (1) Local tax map and lot numbers;
 - (2) Deed reference by county, volume and page numbers;
 - (3) A plotting on a United States Geological Survey (USGS) topographic map, or copy thereof, prepared at a scale of 1:24,000 or 1:25,000;
 - (4) Latitude and longitude of a known fixed point on the site; and
 - (5) Written directions from a known point of reference in the vicinity of the facility site.

Env-Sw 103.03 “Floodplain” means the land area adjoining inland or coastal waters which is capable of being inundated by a base flood.

Env-Sw 103.04 “Fly ash” means the ash residue from the combustion of solid waste, fossil fuel, wood, sludge, or other material that is entrained in the gas stream of the incinerator and removed by the air pollution control equipment.

Env-Sw 103.05 “Footprint” means:

- (a) For a permitted landfill or stockpile, the area in which solid waste actually exists or formerly existed, or is proposed to be placed, as authorized in the permit, regardless of whether solid waste has actually been deposited;
- (b) For a proposed landfill or stockpile, the area in which solid waste is to be placed as proposed in the permit application; and
- (c) For any other landfill or stockpile, the area in which solid waste actually exists.

Env-Sw 103.06 “Friable asbestos” means “friable asbestos material” as defined by 40 CFR 61, namely “any material containing more than one percent asbestos as determined using the method specified in appendix A, subpart F, 40 CFR part 763, section 1, Polarized Light Microscopy, that, when dry, can be crumbled, pulverized, or reduced to powder by hand pressure.”

Env-Sw 103.07 “Generator” means any person whose act or process produces a waste or whose act first causes waste to be subject to regulation.

Env-Sw 103.08 “Geocomposite” means a manufactured material using geotextiles, geogrids, geomembranes, or combinations of same, in a laminated or composite form.

Env-Sw 103.09 “Geogrid” means a netlike polymeric material used with foundation, soil, rock, earth, or any other geotechnical engineering-related material as an integral part of a man-made structure or system to provide reinforcement to soil slopes.

Env-Sw 103.10 “Geomembrane” means an essentially impermeable membrane used with foundation, soil, rock, earth, or any other geotechnical engineering-related material as an integral part of a man-made structure or system designed to limit the movement of liquid or gas into or out of the system.

Env-Sw 103.11 “Geonet” means a type of a geosynthetic that allows planar flow of liquids.

Env-Sw 103.12 “Geosynthetics” means the generic classification of all synthetic materials used in geotechnical engineering applications, including geotextiles, geogrids, geomembranes, and geocomposites.

Env-Sw 103.13 “Geotextile” means any permeable textile used with foundation, soil, rock, earth or any other geotechnical engineering-related material as an integral part of a man-made structure or system which is designed to act as a filter to prevent the flow of soil fines or other particles into drainage systems, or to provide planar flow for drainage, or to serve as a cushion to protect geomembranes, or to provide structural support.

Env-Sw 103.14 “Groundwater” means water below the land surface in the zone of saturation of soil or rock and includes perched water separated from the main body of groundwater by an unsaturated zone.

Env-Sw 103.15 “Groundwater table” means the seasonally high surface of groundwater naturally occurring at atmospheric pressure.

Env-Sw 103.16 “Hazardous waste” means hazardous waste as defined by RSA 147-A:2, VII, namely “a solid, semi-solid, liquid or contained gaseous waste, or any combination of these wastes:

(a) Which, because of either quantity, concentration, or physical, chemical, or infectious characteristics may:

- (1) Cause or contribute to an increase in mortality or an increase in irreversible or incapacitating reversible illness; or
- (2) Pose a present or potential threat to human health or the environment when improperly treated, stored, disposed of, or otherwise mismanaged.

(b) Or which has been identified as a hazardous waste by the department using the criteria established under RSA 147-A:3, I or as listed under RSA 147-A:3, II. Such wastes include, but are not limited to, those which are reactive, toxic, corrosive, ignitable, irritants, strong sensitizers or which generate pressure through decomposition, heat or other means. Such wastes do not include radioactive substances that are regulated by the Atomic Energy Act of 1954, as amended.”

Env-Sw 103.17 “Hazardous waste rules” means the rules found in Env-Wm 101, Env-Wm 110, Env-Wm 211 through Env-Wm 216, Env-Wm 351 through Env-Wm 353 and Env-Wm 400 through Env-Wm 1000.

Env-Sw 103.18 “Hearing” means “hearing” as defined by RSA 149-M:4, X, namely “the opportunity for the submission of written or oral comments, or both.”

Env-Sw 103.19 “High level disinfection” means inactivation of all vegetative bacteria, fungi, lipophilic/hydrophilic viruses, parasites and mycobacteria at a 6 Log₁₀, or a million-fold, reduction or greater.

Env-Sw 103.20 “Household hazardous waste” means hazardous waste generated from non-commercial usage by individuals in their living abodes.

Env-Sw 103.21 “Household infectious waste” means infectious waste generated from non-commercial medical treatment of individuals in personal residences, such as needles from self-administered insulin treatments.

Env-Sw 103.22 “Identification of parties” means, in the context of filing an application or registration pursuant to the solid waste rules, all of the following information for the applicant or registrant, facility operator and property owner:

(a) If an individual, the individual’s name, date of birth, mailing address and telephone number; or

(b) If other than an individual:

- (1) The information required by RSA 149-M:10, I(b); and
- (2) The name, title, mailing address and telephone number of the individual associated with and designated by the identified party to be the contact individual for matters concerning the application or registration being filed.

Env-Sw 103.23 “Imminent hazard” means any condition or practice which presents a substantial and immediate threat to human health, safety or the environment.

Env-Sw 103.24 “Impermeable” means not permitting passage through a substance which, when used in the solid waste rules to describe any soil or geosynthetic component of a landfill liner or cap, means the component has a saturated hydraulic conductivity of 1×10^{-7} cm/sec or less.

Env-Sw 103.25 “Incinerator” means “incinerator” as defined by RSA 149-M:4, X-a, namely “a facility which employs a method of using controlled thermal combustion, including flame combustion, to thermally break down waste or other materials, including refuse-derived fuel, to an ash residue that contains little or no combustible materials.”

Env-Sw 103.26 “Inert construction and demolition debris” means construction and demolition debris which is comprised of materials that do not degrade, combust or generate leachate.

Env-Sw 103.27 “Infectious agent” means any organism, such as a virus, bacteria, parasite, fungus or other microbial agent which is capable of being communicated by invasion and multiplication in body tissues and body fluids, and capable of causing disease or adverse health impacts in humans.

Env-Sw 103.28 “Infectious waste” means any waste which because of its infectious nature may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed.

Env-Sw 103.29 “Insignificant effect on environmental quality” means a minimal adverse change in the quality of groundwater, surface water, air quality or public health, either for the short term or the long term.

Env-Sw 103.30 “Land owner” means the record owner of a parcel of land upon which a facility is or is proposed to be located.

Env-Sw 103.31 “Landfill reclamation” means the excavation of a portion or all of a landfill for the purpose of reducing landfill volume; reducing closure and post-closure costs by complete or partial removal of the landfill; creating capacity; or reducing adverse environmental impacts through the mining and separation of waste and soils into recyclable, reusable or combustible components. The term does not include recontouring, regrading or relocating existing waste at a landfill to reduce the landfill footprint or to achieve final grades.

Env-Sw 103.32 “Landfill” means a facility which collects and disposes of waste by landfilling methods. The term includes facilities that collect and store waste indefinitely. The term does not include incinerators, land application sites, surface impoundments and injection wells.

Env-Sw 103.33 “Landfilling” means a method of disposing of solid waste, by the intentional placement of the solid waste in or on land where it will remain after closure.

Env-Sw 103.34 “Leachate” means a liquid, including any suspended components in the liquid, which has contacted or passed through solid waste.

Env-Sw 103.35 “Lift” means a layer of compacted solid waste and the cover material immediately above it in a landfill or other land disposal site.

Env-Sw 103.36 “Limited private facility” means a type of “private facility” as defined by RSA 149-M:4, XVI that is permitted to receive only wastes generated by permittee.

Env-Sw 103.37 “Limited public facility” means a type of “public facility” as defined by RSA 149-

M:4, XVIII that is permitted to receive only wastes generated by sources that are within the permittee's jurisdiction or within the jurisdiction of other towns, governmental units, agencies, political subdivisions or districts that have entered into a written agreement with the permittee for management of said waste.

Env-Sw 103.38 "Limited service" means the service type provided by a public or private facility which, through the conditions of the permit, allows the facility to receive authorized waste from specified sources only.

Env-Sw 103.39 "Liner" means a barrier that restricts the downward or lateral flow of the overlying waste and its constituents, or leachate. Liners can be either natural, for instance clay, or man-made, for instance plastic.

Env-Sw 103.40 "Low permeability cap" means a cap installed for landfill closure with a permeability of not greater than 1×10^{-5} cm/sec.

Env-Sw 103.41 "Lower explosive limit" means the lowest concentration by percentage in air of a flammable gas or vapor in which an explosion can occur upon ignition at 25°C (78°F) at atmospheric pressure.

Env-Sw 103.42 "Manure" means manure as defined by RSA 149-M:4, XI, namely "animal feces and urine with natural organic bedding materials such as hay, sawdust, straw or wood chips, but exclusive of human waste." The term also includes animal feces and urine which are not mixed with bedding or which are mixed with newsprint that has been used as bedding.

Env-Sw 103.43 "Monitoring well" means a well used for the purpose of sampling groundwater and/or measuring groundwater elevations.

Env-Sw 103.44 "Monofill" means a landfill or landfill cell into which only one type of waste is placed.

Env-Sw 103.45 "Mixed municipal solid waste" means municipal solid waste that is not separated by type.

Env-Sw 103.46 "Municipal solid waste (MSW)" means solid waste generated at residences, commercial or industrial establishments, and institutions, but excluding construction and demolition debris, automobile scrap and other motor vehicle waste, infectious waste, asbestos waste, contaminated soil and other absorbent media and ash other than ash from household stoves.

Env-Sw 103.47 "New facility" means a facility not existing as of October 29, 1997. The term includes proposed facilities and landfill expansions beyond the footprint boundaries.

Env-Sw 103.48 "Non-friable asbestos" means any asbestos material which does not contain friable asbestos.

Env-Sw 103.49 "Non-friable category I asbestos" means "category I nonfriable asbestos containing material (ACM)" as defined in 40 CFR 61, namely "asbestos-containing packings, gaskets, resilient floor covering, and asphalt roofing products containing more than one percent asbestos as determined using the method specified in appendix A, subpart F, 40 CFR part 763, section 1, Polarized Light Microscopy."

Env-Sw 103.50 "Non-friable category II asbestos" means "category II nonfriable asbestos containing material (ACM)" as defined in 40 CFR 61, namely "any material, excluding Category I nonfriable ACM, containing more than one percent asbestos as determined using the methods specified in appendix A, subpart F, 40 CFR part 763, section 1, Polarized Light Microscopy that, when dry, cannot be

crumbled, pulverized, or reduced to powder by hand pressure.”

Env-Sw 103.51 “Non-landfill facility” means a facility which is not a landfill, including collection, storage and transfer facilities, processing or treatment facilities and land application sites.

Env-Sw 103.52 “Nonpoint sources” means pollution sources that are diffuse by nature, in that the pollution emitted does not normally enter the environment by discrete conveyances as do point sources. Nonpoint sources of pollution potentially result from activities associated with agriculture, silviculture, mining of sand and gravel, urban storm runoff, urban and rural construction, subsurface disposal systems, deicing salts from highways, and sludge, septage and solid waste disposal on the land.

Env-Sw 103.53 “Open burning” means “open burning” as defined by 40 CFR 61, namely “the combustion of solid waste without:

- (a) Control of combustion air to maintain adequate temperature for efficient combustion;
- (b) Containment of the combustion reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion; and
- (c) Control of the emissions of the combustion products.”

Env-Sw 103.54 “Owner” means a person who owns a facility or part of a facility.

PART Env-Sw 104 SOLID WASTE RULE DEFINITIONS: P THROUGH Z

Env-Sw 104.01 “Permit” means “permit” as defined by RSA 149-M:4, XIV, namely “an authorization from the department for the construction and operation of a facility.”

Env-Sw 104.02 “Permit-by-notification” means a permit, obtained after supplying notification in accordance with the requirements of Env-Sw 311, authorizing the construction and operation of certain solid waste facilities as prescribed in Env-Sw 407, Env-Sw 507, Env-Sw 607, Env-Sw 707, and Env-Sw 809.

Env-Sw 104.03 “Permit-by-notification facility” means a facility authorized or requiring authorization by issuance of a permit-by-notification.

Env-Sw 104.04 “Permit-exempt facility” means a facility not required by the solid waste rules to hold a permit issued pursuant to RSA 149-M, as specified by Env-Sw 302.03.

Env-Sw 104.05 “Permitted facility” means a facility with a valid permit issued pursuant to RSA 149-M and the solid waste rules.

Env-Sw 104.06 “Permittee” means a person to whom a permit to operate or construct a facility is issued pursuant to the solid waste rules or, in the case of a permit-exempt facility, the person who is responsible for construction, operation, maintenance, closure and post-closure monitoring of the facility.

Env-Sw 104.07 “Person” means “person” as defined in RSA 149-M:4, XV, namely “any individual; business entity, including a trust, firm, joint stock company, corporation (including a government corporation); partnership; association; government agency; or political subdivision of the state.”

Env-Sw 104.08 “Phase” means, within a landfill, an area comprised of 2 or more stages and which is surrounded by berms that hydraulically separate the phase from other phases of the landfill when such

phases have not yet received wastes or been constructed.

Env-Sw 104.09 “Preliminary plan” means a plan for a proposed activity that provides sufficient information to determine that the proposed activity meets the requirements of the solid waste rules, but does not provide a level of detail or include documentation or features sufficient to implement the proposed activity in compliance with the solid waste rules. The term applies to design plans, operating plans, financial assurance plans, and closure plans for facilities.

Env-Sw 104.10 “Private facility” means a “private facility” as defined in RSA 149-M:4, XVI, namely “one whose permit is held by a person other than a government unit or agency or political subdivision of the state.”

Env-Sw 104.11 “Process” means any activity that changes the chemical, biological or physical characteristics of a waste.

Env-Sw 104.12 “Processed recyclable material” means a recyclable material which has been physically sorted and separated by material type, formed into bales or otherwise physically processed and packaged in a manner satisfying the specifications for transportation to and acceptance by a market that will use the material for the production of certified waste-derived products.

Env-Sw 104.13 “Processing/treatment facility (P/T facility)” means a facility which collects waste from any location, stores the waste for a limited period of time, subsequently processes or treats the waste, subsequently stores the processed or treated waste for a limited period of time and ultimately transfers the treated or processed waste to another location. The term excludes collection, storage and transfer facilities, landfills and land application sites.

Env-Sw 104.14 “Property owner” means the record owner of the parcel of land or structures, or both, where a facility is or is proposed to be located. The term includes “landowner” and “facility owner.”

Env-Sw 104.15 “Public benefit” means “public benefit” as defined in RSA 149-M:4, XVII, namely “the protection of the health, economy and natural environment of the state of New Hampshire consistent with RSA 149-M:11.”

Env-Sw 104.16 “Public facility” means “public facility” as defined in RSA 149-M:4, XVIII, namely “one whose permit is held by a town or other governmental unit or agency or political subdivision of the state, or a combination thereof.”

Env-Sw 104.17 “Putrescible material” means any organic material which can decompose and give rise to foul odors and noxious by-products.

Env-Sw 104.18 “Qualified professional engineer” means a person who is a registered professional engineer in New Hampshire and whose formal education, training and experience in the field of engineering falls within the scope of the professional engineering efforts required to be undertaken.

Env-Sw 104.19 “Recyclable materials” means “recyclable materials” as defined in RSA 149-M:4, XIX, namely “materials that can be used to produce marketable goods, including but not limited to separated clear and colored glass, aluminum, ferrous and nonferrous metals, plastics, corrugated cardboard, motor vehicle batteries, tires from motor vehicles, and paper.” The term does not include:

(a) Hazardous waste, hazardous air pollutants, and other waste not regulated as solid waste, as identified in Env-Sw 101.03;

- (b) Waste identified as non-reusable in Env-Sw 900, including asbestos and infectious waste; and
- (c) Wastes from an unspecified production or generation process, such as municipal solid waste incinerator ash and contaminated soils or absorbent media.

Env-Sw 104.20 “Recycling facility” means a collection, storage and transfer facility which collects, stores and prepares recyclable materials for market and transfers processed recyclable materials to markets for recycling. The term includes “recycling center.”

Env-Sw 104.21 “Recycling” means “recycling” as defined by RSA 149-M:4, XX, namely “the collection, storage, processing and redistribution of recyclable materials.” The term excludes the redistribution of recyclable materials for any purpose constituting disposal as defined in RSA 149-M:4, VI, incineration or another purpose not directly related to the production of certified waste-derived products.

Env-Sw 104.22 “Refuse” means “refuse” as defined by RSA 149-M:4, XXI, namely “any waste product, solid or having the character of a solid rather than a liquid in that it will not flow readily without additional liquid, and which is composed wholly or partly of such materials as garbage, swill, sweepings, cleanings, trash, rubbish, litter, industrial or domestic solid wastes; organic wastes or residue of animals sold as meat; fruit, vegetable or animal matter from kitchens, dining rooms, markets, food establishments or any places dealing in or handling meat, fowl, fruits, grain or vegetables; offal, animal excreta, or the carcasses of animals; brick, plaster or other waste matter resulting from the demolition, alteration, or construction of buildings or structures; or accumulated waste material, cans, containers, tires, junk, or other such substances which may become a nuisance.” The term does not include yard waste, actively managed waste-derived products which are certified for distribution and use pursuant to Env-Sw 1500, and bodies of deceased persons. The term includes recyclable materials, whether processed or unprocessed.

Env-Sw 104.23 “Representative sample” means a sample collected from a population or whole that exhibits the average or typical properties of the larger population or whole.

Env-Sw 104.24 “Research and development facility permit” means a permit issued pursuant to the solid waste rules authorizing research and development projects.

Env-Sw 104.25 “Research and development permit facility” means a facility authorized or requiring authorization by issuance of a research and development facility permit.

Env-Sw 104.26 “Research and development project (R&D project)” means a scientific study involving the collection, storage, transfer, processing, treatment or disposal of solid waste, that is conducted by one or more investigators, qualified by reason of education and experience, and which is intended to further fundamental knowledge, evaluate processes or technologies, and generate and interpret data relative to solid waste management.

Env-Sw 104.27 “Residual waste” means solid waste remaining after processing, treatment or disposal of solid waste or as a by-product of processing or treatment or disposal of solid waste, including leachate, decomposition gases and waste-derived products not certified for distribution and use pursuant to Env-Sw 1500. The term includes “residuals.”

Env-Sw 104.28 “Reuse” means the act of placing a waste into service again, subsequent to its generation.

Env-Sw 104.29 “Runoff” means the liquid that drains from an area as surface flow.

Env-Sw 104.30 “Salvaged item or material” means an item or material which has been recovered or diverted from the solid waste stream and, without processing or treatment except for incidental cleaning, reconditioning or repair, is or will be used in a manner consistent with its original purpose. Examples include used auto parts which are removed from the vehicle and reused as auto parts on another vehicle; used furniture pieces which are repaired or restored for use as furniture; used tools or equipment which are reconditioned and returned to use as tools or equipment; left-over latex paint used as paint; scrap fabric used as fabric; scrap lumber used as lumber; and used brick used as brick.

Env-Sw 104.31 “Saturated hydraulic conductivity” means the rate of laminar flow of water through a unit cross-sectional area of porous medium under a unit hydraulic gradient at a standard temperature. The term includes “coefficient of permeability.”

Env-Sw 104.32 “Saturated zone” means that part of the earth’s crust in which the interconnected voids are filled with water at a pressure equal to or greater than atmospheric pressure. The term includes “zone of saturation.”

Env-Sw 104.33 “Select recyclable material” means a recyclable material comprised of one of the following materials: paper, cardboard, glass, plastic, ferrous metal, non-ferrous metal, or textile materials.

Env-Sw 104.34 “Service area” means the area(s) or place(s) from which a facility receives waste, typically identified by geographic location or by generator source, or a combination thereof.

Env-Sw 104.35 “Service type” means the type of service a facility provides based on the source of waste received, as follows:

- (a) Unlimited service, as is provided by a commercial facility; or
- (b) Limited service, as is provided by either a limited public or limited private facility.

Env-Sw 104.36 “Solid waste” means “solid waste” as defined by RSA 149-M:4, XXII, namely “any matter consisting of putrescible material, refuse or residue from an air pollution control facility; and other discarded or abandoned material. It includes solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities. For purposes of this chapter [RSA 149-M] it does not include hazardous wastes as defined in RSA 147-A:2; solid or dissolved materials in irrigation return flows; cut or uprooted tree stumps buried on-site with local approval if required, provided that such burial locations are not located within 75 feet of any drinking water supply; municipal and industrial discharges which are point sources subject to permits under section 402 of the Federal Water Pollution Control Act, as amended; source, special nuclear or by-product materials as defined by the Atomic Energy Act of 1954, as amended; or septage or sludge as defined in RSA 485-A:2, IX-a and XI-a,” that is to say sludge which is not disposed at solid waste facilities permitted under RSA 149-M. The term “solid waste” also does not include yard waste, actively managed waste-derived products which are certified for distribution and use pursuant to Env-Sw 1500, and bodies of deceased persons.

Env-Sw 104.37 “Solid waste management” means “solid waste management” as defined by RSA 149-M:4, XXIII, namely “the systematic administration of activities for the collection, source separation, processing, treatment, transportation, transfer, storage, recovery and disposal of solid waste.” The term includes “management of solid waste.”

Env-Sw 104.38 “Solid waste facility operator training” means professional or technical instruction which supplies the required amount of solid waste management information as provided and approved by the department pursuant to Env-Sw 1600.

Env-Sw 104.39 “Solid waste rules” means those rules found in subtitle Env-Sw.

Env-Sw 104.40 “Source water protection inventory” means a list, compiled and maintained by the department, which identifies regulated or permitted sites that are known or potential threats to drinking water quality.

Env-Sw 104.41 “Source reduction” means “source reduction” as defined in RSA 149-M:4, XXIV, namely “changing industrial processes, technologies and product components with the specific objective of reducing the amount or toxicity of waste at the source.”

Env-Sw 104.42 “Source separation” means dividing solid waste into some or all of its component parts at the point of generation.

Env-Sw 104.43 “Stage” means, within a landfill, an area comprised of 2 or more cells and which is surrounded by berms that hydraulically separate the stage, when active, from other stages of the landfill when such other stages have not yet received wastes or been constructed.

Env-Sw 104.44 “Standard permit” means a permit to construct and operate a solid waste facility, issued pursuant to RSA 149-M as follows:

- (a) For a facility permitted on or after October 29, 1997, pursuant to Env-Sw 314;
- (b) For a facility permitted before October 29, 1997, pursuant to the provisions of Env-Sw 307.

Env-Sw 104.45 “Standard permit facility” means a facility authorized or requiring authorization by issuance of a standard permit.

Env-Sw 104.46 “State plan” means “state plan” as defined in RSA 149-M:4, XXVI, namely “the state solid waste management plan developed under RSA 149-M:29.”

Env-Sw 104.47 “Storage” means the temporary accumulation, containment or stockpiling of wastes.

Env-Sw 104.48 “Surface water” means “surface waters of the state” as defined by RSA 485-A:2, XIV, namely “all perennial and seasonal streams, lakes, ponds, and tidal waters within the jurisdiction of the state, including all streams, lakes, or ponds bordering on the state, marshes, water courses and other bodies of water, natural or artificial.”

Env-Sw 104.49 “Tank” means a device designed to contain solid waste in a liquid or gaseous form, including leachate, for storage or transportation.

Env-Sw 104.50 “Temporary permit” means a permit issued prior to October 29, 1997, pursuant to a rule codified as Env-Wm 315 effective July 1, 1991 and amended December 24, 1991.

Env-Sw 104.51 “Temporary permit facility” means a facility holding a temporary permit.

Env-Sw 104.52 “Time of concentration” means the time it takes for runoff to travel from the hydraulically most distant point of the watershed to the design point.

Env-Sw 104.53 “Transfer” means, depending on the context in which it is used:

- (a) Removal of waste from one location to another location; or

(b) Authorizing a permit to be held by a new permittee, pursuant to the type IV permit modification criteria and procedures in Env-Sw 315.

Env-Sw 104.54 “Transfer station” means a solid waste collection, storage and transfer facility, which collects, stores and transfers solid waste, including non-recyclable waste.

Env-Sw 104.55 “Treat” means to process a waste by a method or technique that uses an external agent or agents to cause a chemical, biological or physical change, said agents to include heat, chemicals, or incorporation of other substances or materials.

Env-Sw 104.56 “Type of waste” means a category of waste, at least as specific as the following, which describes the belonging waste by its material composition or other distinguishing characteristics:

- (a) Ash;
- (b) Bulky waste;
- (c) Construction and demolition debris;
- (d) Hazardous waste;
- (e) Household hazardous waste;
- (f) Household infectious waste;
- (g) Infectious waste;
- (h) Municipal solid waste;
- (i) Putrescible waste;
- (j) Recyclable materials;
- (k) White goods; and
- (l) Yard waste.

Env-Sw 104.57 “Unlimited service” means the service type provided by a commercial facility which, through the conditions of the permit, allows the facility to receive authorized waste from any source, including the spot market.

Env-Sw 104.58 “Unsaturated zone” means the zone between the land surface and the saturated zone in which the void spaces in soil or rock are only partially or intermittently filled with water. The term includes the “zone of aeration.”

Env-Sw 104.59 “Unsuitable waste” means waste for which a processing or treatment facility is not designed and which, if processed or treated by that facility, can adversely effect the quality of the products or materials being produced by the facility or the quality of residual waste generated by the facility to the extent that the residuals cannot be managed as required by Env-Sw 505.

Env-Sw 104.60 “Vector” means any carrier that is capable of transmitting a pathogen from one organism to another including, but not limited to, flies and other insects, rodents, birds, and other vermin.

Env-Sw 104.61 “Waste-derived product” means a material or item which is produced, in whole or in part, using materials or items which are recovered or diverted from the solid waste stream.

Env-Sw 104.62 “Waste reduction” means the reduction of waste at the source by changing industrial processes, technologies, and product components with the specific objective of reducing the quantity or rate at which waste is generated.

Env-Sw 104.63 “Waste shipment record” means a shipping document, originated and signed by the waste generator, which is used to track and substantiate the disposition of waste.

Env-Sw 104.64 “Wetland” means an area that is subject to the jurisdiction of the department under RSA 482-A.

Env-Sw 104.65 “White goods” means a generic term for a variety of discarded household appliances, including clothes washers, clothes dryers, stoves, refrigerators, freezers, dishwashers and air conditioners.

Env-Sw 104.66 “Working face” means the portion of a landfill where solid waste is being actively deposited, spread, compacted, and covered.

Env-Sw 104.67 “Yard waste” means leaves, grass clippings, garden debris, and small or chipped branches.

APPENDIX

Rule Section(s)	State Or Federal Statute(s) Implemented
Env-Sw 101	RSA 149-M:7, XV
Env-Sw 102	RSA 149-M:7, XV
Env-Sw 103	RSA 149-M:7, XV
Env-Sw 104	RSA 149-M:7, XV